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May 11, 2015

By ECF and Hand Delivery

The Honorable Shira A. Scheindlin
United States District Judge
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street
New York, NY 10007-1312

BOKF, N.A. v. Caesars Entertainment Corp., No. 15 Civ. 1561 (SAS) (“BOKF”)

MeehanCombs Global Credit Opportunities Master Fund, LP, et al.
v. Caesars Entertainment Corp., et al., No. 14 Civ. 7091 (SAS) (“MeehanCombs”)

Danner v. Caesars Entertainment Corp., et al., No. 14 Civ. 7973 (SAS) (“Danner”)

Dear Judge Scheindlin:

We represent defendant Caesars Entertainment Corp. (“CEC”) in these matters, and I write in response to the letter to the Court from the plaintiff in *BOKF*, dated May 6, 2015 (the “BOKF Letter”), requesting entry of a scheduling order in that case that coincides with the dates in the Scheduling Order in the *MeehanCombs* and *Danner* actions.

As explained further below, CEC fully supports the coordination of all three actions as well as a related action pending in Delaware Chancery Court, all of which involve claims that CEC is liable as a guarantor of debt instruments issued by its subsidiary Caesars Entertainment Operating Company, Inc. (“CEOC”). Based upon the BOKF Letter and our discussions with the plaintiffs in these four matters, we understand that the plaintiffs agree in principle to such coordination. CEC further agrees that a single scheduling order should govern these matters. We respectfully submit, however, that the deadlines under the current Scheduling Order in *MeehanCombs* and *Danner* should be extended by 60 days, taking account of the additional time necessary for discovery in the later-filed *BOKF* action (involving different CEOC notes governed by a different indenture) and the complexities of coordinating discovery in all

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four actions. Under CEC's proposed schedule, fact discovery would be completed by October 1, 2015, or approximately seven months after *BOKF* was commenced.

Background

As the Court is aware, the *MeehanCombs* and *Danner* actions were brought by holders of certain unsecured CEOC notes, and assert claims against CEC, as an alleged guarantor of those notes, under both the governing indentures and the Trust Indenture Act ("TIA"). The principal issue in both cases is whether CEC's guarantee of the CEOC notes was effectively released as a result of certain transactions undertaken in May and August 2014. Under the current Scheduling Order, dated February 3, 2015, fact discovery is set to be completed by August 1, 2015. The Order provides that the schedule may be amended "on a showing of good cause not foreseeable at the time of the conference or when justice so requires." (Scheduling Order [Dkt. 25], dated Feb. 3, 2015, at 6.) Since then, the parties have exchanged responses and objections to various discovery requests, and plaintiffs have served subpoenas on a number of third parties, including other noteholders who were parties to one of the transactions at issue.

The *BOKF* action was commenced on March 3, 2015, approximately a month after entry of the *MeehanCombs* and *Danner* Scheduling Order. *BOKF*, like the plaintiffs in those other cases, seeks to hold CEC liable as a guarantor of certain CEOC notes, but the notes at issue and the governing indenture differ from those at issue in the earlier filed cases. CEC filed an answer on March 25, 2015, and the parties have exchanged initial disclosures. On April 16, 2015, *BOKF* served its first set of discovery requests—including 79 requests for documents (largely but not entirely overlapping with requests previously made by the *MeehanCombs* and *Danner* plaintiffs), twelve interrogatories, and two requests for admissions. CEC's written responses are due May 18.

The parties have been working cooperatively to attempt to coordinate discovery across the *MeehanCombs*, *Danner*, and *BOKF* actions, as well as a separate action pending in the Delaware Court of Chancery in which the plaintiff (also a trustee for a different tranche of second lien secured notes issued by CEOC) asserts similar claims (*Wilmington Savings Fund Society, FSB v. Caesars Entertainment Corp., et al.*, No. 10004 VCG (Del. Ct. of Chancery) ("*WSFS*"). The parties have exchanged correspondence and had multiple meet-and-confers about search terms, custodians, and date ranges for the production of documents, and plaintiffs in all four actions have agreed to such coordination in principle.

The claim in the *BOKF* Letter that there has been "no objection from CEC" to the ESI search protocols proposed by *BOKF* is incorrect. (*BOKF* Letter at 1.) In fact, CEC sent a letter to *BOKF* on April 27, 2015, explaining that it was not prepared to agree to a number of *BOKF*'s requested searches, and CEC has raised concerns on multiple occasions—both in correspondence and in meet-and-confers—about the plaintiffs' requests for documents concerning CEOC. We do not, however, believe that there are any discovery disputes that are ripe for resolution by the Court.

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CEC's Proposed Coordinated Scheduling Order

CEC fully supports the coordination of scheduling in the *BOKF*, *MeehanCombs*, *Danner* and *WSFS* actions, and agrees that a single scheduling order should govern all three of the actions pending in this Court. We respectfully submit, however, that a coordinated scheduling order in the three cases before this Court should extend 60 days beyond the dates in the current Scheduling Order in *MeehanCombs* and *Danner*.

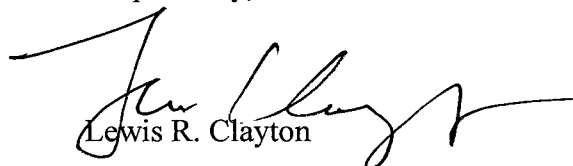
Under Fed. R. Civ. P. 16(b)(4), “good cause” to modify scheduling orders is “liberally construed” and is satisfied where, as here, the movant can “demonstrate[e] that it could not reasonably meet its deadline despite diligent efforts.” *Exp.-Imp. Bank of U.S. v. Asia Pulp & Paper Co.*, 233 F.R.D. 338, 342 (S.D.N.Y. 2005). The Court should also “consider, among other things, whether any prejudice will result, and whether the interests of justice make such a course desirable.” *Dippel v. Farrell Lines Inc.*, No. 03 Civ. 130 (PKL), 2004 WL 369140, at *1 (S.D.N.Y. Feb. 27, 2004) (internal quotations and citations omitted).

Good cause to modify the *MeehanCombs/Danner* Scheduling Order exists here. *First*, such a modification would permit coordination of those cases with the later-filed *BOKF* action. That case was commenced approximately one month after the Court’s entry of the Scheduling Order in *MeehanCombs* and *Danner*, and some six months after those cases were first filed. And, as noted, *BOKF* has sought documents that other plaintiffs have not. *Second*, the *BOKF* and *WSFS* actions involve different series of notes governed by different indentures. *Third*, while the parties have been working diligently and largely cooperatively on coordinating discovery, there remain a variety of issues that have yet to be resolved, although CEC is hopeful that the parties will be able to address them without any recourse to the Court. *Finally*, we note that a modest extension of the deadlines in the current Scheduling Order would not prejudice the *MeehanCombs* and *Danner* plaintiffs, since they had previously agreed to a similar schedule prior to the February 3rd conference with the Court.

CEC has not made any previous requests for extensions or adjustments to the Scheduling Order. A proposed order reflecting the modifications described above is attached hereto as Exhibit A.

We are prepared to participate in an in-person or telephone conference at the Court’s convenience to address any questions.

Respectfully,



Lewis R. Clayton

cc: All Counsel of Record (via ECF)
Martin S. Lessner, Esq. (via email)
Todd R. Geremia, Esq. (via email)
David I. Zalman, Esq. (via email)